

## Sentencing and public confidence

### Results from a national Australian survey on public opinions towards sentencing

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Article

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# **Sentencing and public confidence: Results from a national Australian survey on public opinions towards sentencing**

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**Abstract**

This paper examines the critical issue of public confidence in sentencing and presents findings from Phase I of an Australia-wide sentencing and public confidence project. Phase I comprised a nationally representative telephone survey of 6005 participants. The majority of respondents expressed approval for high levels of punitiveness and were dissatisfied with sentences imposed by the courts. Despite this, many were strongly supportive of the use of alternatives to imprisonment for a range of offences. These nuanced views raise questions regarding the efficacy of gauging public opinion using opinion poll style questions. This was indeed the expected outcome from this first phase of the four phase sentencing and public confidence project. The following phases of this project, reported on elsewhere, examined the robustness and nature of these views expressed in a standard 'top of the head' opinion poll.

**Keywords**

confidence in sentencing, leniency in sentencing, public opinion, punitiveness, survey

A critical issue in criminology is public confidence and opinions about sentencing. Public opinion in this area matters for a number of reasons. The first reason is that many stages of the criminal justice process are reliant on the support and confidence of the public (e.g. see Roberts, 2007). The police are typically reliant on reports by victims and witnesses, and the court process itself requires co-operation from various participants including complainants, witnesses and jurors. A second reason is that public opinion can be influential in relation to actual sentencing decisions (Mackenzie, 2005; Gleeson, 2004). A third reason is that public opinion has emerged as a strong driver of sentencing policy in many jurisdictions (Frost, 2010; Roberts, 2008; Wood, 2009). In fact, a number of countries have devised strategies to incorporate public opinion in sentencing policy (Indermaur, 2008). A further reason is that research has indicated that attitudes relating to punishment and the criminal justice system have a strong bearing on the willingness of citizens to obey the law (Robinson and Darley, 1997; Tyler, 2006a, 2006b; Tyler and Darley, 2000). Clearly then, public opinion has far reaching consequences for not only the criminal justice system but also for society as a whole.

This article examines public confidence in the courts and sentencing, as well as attitudes towards punishment and justice. There is a paucity of comprehensive research on public opinions in this area at a national level in Australia. A recent review of this Australian research is provided by Roberts, Spiranovic and Indermaur (forthcoming) and thus only a brief summary is provided here. There have been a number of recent State-based surveys that have examined attitudes towards sentencing and punishment (e.g. Department of Justice Victoria, 2009; Jones and Weatherburn, 2010; Jones et al., 2008; Lovegrove, 2007; Warner et al., 2009, 2011). In contrast, the most comprehensive and up-to-date data at a national level is collected through the biennial Australian Survey of Social Attitudes (AuSSA) which was first conducted in 2003 and now includes a small but relevant section on attitudes towards the criminal justice system (e.g. see Indermaur and Roberts, 2005, 2009; Roberts and Indermaur, 2007, 2009).

However, there are some methodological issues that limit the reliability and validity of AuSSA's findings concerning the views of the Australian public regarding sentencing

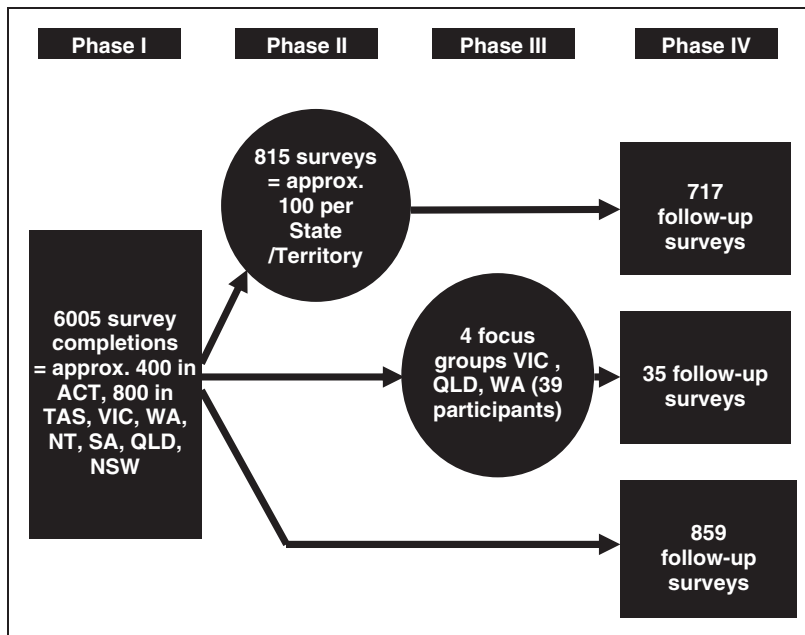
and punishment. One overarching issue is the low response rates that have been obtained for AuSSA (ranging from 39% to 42% for the three different versions of the 2007 survey; Roberts and Indermaur, 2009); this clearly limits the extent to which the results may be generalised to the Australian population as a whole. In addition, a relatively small number of items have been used to assess attitudes towards crime and justice and these items are only included in two of the three versions of the 2007 AuSSA which limits the sample size for these items. The items that have been included do not specifically assess the critical issue of confidence in sentencing but rather focus on confidence in the courts with respect to upholding victim and defendant rights as well as timeliness and fairness of court procedures. Furthermore, single generalised statements were used to assess attitudes towards punishment; these statements do not take into consideration different types of offences nor do they provide respondents with information regarding different options and choices. Clearly then, further research employing an improved methodology is needed in Australia to reliably and comprehensively explore public confidence in sentencing and attitudes towards punishment.

### **The present study**

This paper reports on findings from an Australia-wide sentencing and public confidence project. This Australian project in its entirety will generate much needed quantitative as well as qualitative data on the critical issue of public confidence in sentencing through a multi-phased research design. The objectives of this project as a whole are as follows:

1. To comprehensively measure the levels of public confidence in the way in which judges and magistrates sentence offenders in Australian courts;
2. To analyse the socio-demographic, cultural, cognitive and attitudinal predictors (e.g. knowledge and beliefs about crime and sentencing, fear of crime) relevant to 'public confidence';
3. To assess the malleability of confidence levels as a measure of likely public tolerance and support for the development of reform initiatives;
4. To analyse and examine the stability of punitive attitudes over time; and
5. To apply focus group methodology to assess ways in which public opinion can be ascertained in a form that can be utilised to inform sentencing practice.

As outlined in Figure 1, the sentencing and public confidence project consisted of four phases. Phase I involved a nationally representative telephone survey of public perceptions of sentencing that was completed in April 2009. Phase I was followed by random allocation of participants to either one of two interventions, or a control group. The interventions aimed to elicit well-considered judgments and decisions from the general public on the following important issues; purposes of sentencing, mandatory imprisonment, and alternatives to imprisonment. The interventions comprised either a further telephone survey (Phase II) or a small discussion group referred to as a People's Jury (Phase III). Immediately following the interventions, respondents were presented with the same items comprising the key dependent variables (i.e. confidence in sentencing, punitiveness, and acceptance of alternatives to imprisonment) measured in Phase I. A final follow-up telephone survey was completed in May 2010, approximately six



**Figure 1.** Illustration of the four phases of the national research project 'Sentencing and public confidence'.

months after the intervention phases, to compare the control group with the intervention groups and determine the durability of any changes in attitude measured during the interventions phases.

The focus of this present paper is on the Phase I survey. The Phase I survey utilised a broad range of items and was based on a large sample of Australians ( $N = 6005$ ) from all States and Territories. This paper will specifically provide a comprehensive response to the following two broad research questions:

1. How confident is the Australian public in the courts and sentencing?
2. What are the views of the Australian public towards punishment?

As noted previously, national Australian data on these two broad and important research questions is lacking. Most of the research in relation to public confidence and sentencing has been carried out in the United Kingdom, America and Canada (Roberts et al., 2003) and the findings of this project will serve as a vital comparison with these jurisdictions. In addition, through providing reliable baseline data for Australia, this research offers a useful platform for further investigation in Australia. In particular, future research on gauging public attitudes can build on these results in the quest to find improved ways of measuring informed public opinion. Furthermore, this baseline data will allow future studies to gauge the impact of strategies used to improve public confidence in sentencing.

## Method

### Participants

A stratified random sample of 6005 participants (400 from The Australian Capital Territory, 800 from each of Victoria,<sup>1</sup> New South Wales, South Australia and Tasmania, 801 from Queensland, 802 from each of Western Australia and the Northern Territory) aged 18 years or older participated in this study. A sample size of 800 per jurisdiction (except ACT) was selected to enable State/Territory estimates with an accuracy level of + or – 3 per cent (ABS, 1999).

Table 1 presents the key demographic characteristics of this sample as well as comparative data on the Australian population. The majority of the sample was female, with a mean age of 53 years and a mean of 13 years of education. The majority resided in metropolitan regions and self-identified as middle income.<sup>2</sup> It is clear that the sample is comparable to the Australian population in terms of gender and education. However, this sample appears to be comparatively older than the Australian population and those living in metropolitan regions are over-represented.<sup>3</sup> To ensure representativeness of the findings, data were weighted by age, gender and State/Territory population (ABS, 2008b) to produce national estimates.

**Table 1.** Demographic data for the sample of 6005 survey respondents

		N = 6005 sample	Australian population
Gender (%) <sup>a</sup>	Male	49	49
	Female	51	51
Age (in years) <sup>b</sup>	Mean	53.44 (15.61) <sup>d</sup>	46.13
Education (in years) <sup>c</sup>	Mean	13.42 (3.77) <sup>d</sup>	12.6
Location (%) <sup>e</sup>	Metropolitan	61	32
	Rural	20	22
	Regional	17	21
	Remote	2	25
Income (%) <sup>f</sup>	Lower	19	
	Middle	69	
	Upper	11	

**Notes:**

a. Gender distribution for Australia calculated as percentage of males and females aged 18 years and older based on data from ABS (2008b).

b. Mean age for Australia based on ABS (2008b) data on population estimates for persons aged 18 years and older.

c. Average number of successfully completed years of education for Australia based on OECD Education database, 2010, available at: <http://www.oecd.org/dataoecd/56/9/37863998.pdf>

d. Standard deviation for age and education of sample in parentheses.

e. Location breakdown for Australia based on ABS (2008a) data for categories of major cities, outer regional, inner regional, and remote (remote and very remote combined) classifications respectively.

f. Comparable data on income from the ABS cannot be obtained given income category was self-rated in the present study, whereas national ABS data on income is based on calculations of disposable income after tax (see ABS, 2009: 4).

## Materials

The interview schedule consisted of items assessing attitudes to crime and sentencing, media usage and relevant demographic variables. The mean administration time was 15 minutes and 37 seconds.

The individual items from this survey are listed in Table A1 of the Appendix. A number of scales that demonstrated adequate psychometric properties were constructed by adding together item scores. Further details on the derived scales are provided in Table A2 in the Appendix.

There were a number of items measuring the key constructs of interest in the present paper. In relation to the first research question (confidence in the courts and sentencing), there were seven items measuring confidence in sentencing, and three items gauging perceptions of the extent to which the courts treat people in an egalitarian manner. In terms of the second research question (attitudes towards punishment), there were seven items specifically measuring punitive attitudes, five measuring willingness to accept alternatives to prison, three relating to the view that sentences imposed by the courts should reflect public opinion and five gauging views on leniency in sentencing.

## Procedure

The sample was drawn from a random selection of Electronic White Pages (EWP) entries stratified by State and Territory. The interviews were conducted from December 2008 through to April 2009 using Computer Assisted Telephone Interviewing (CATI). Demographic items were administered in fixed position at the end of the survey. All other survey items were delivered in blocks and the order of

**Table 2.** Percentage ratings for 'Confidence in Sentencing' items utilising a five-point Likert scale ranging from 1 (strongly disagree) to 5 (strongly agree)

Confidence items	Percentage					
	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
P11 The individual judge is the best person to choose an appropriate sentence for each case.	7	38	11	39	4	1
P14 I am satisfied with the decisions that the courts make.	11	40	18	30	1	1
P15 I have confidence that judges impose an appropriate sentence most of the time.	7	28	8	53	4	1
P20 Judges are in touch with what ordinary people think.	15	43	15	23	2	2

presentation of these blocks as well as items within these blocks was randomized. (Roberts et al., forthcoming) provide a detailed description of the procedure used to administer the survey via CATI. The overall response rate of 67 per cent was calculated as completed interviews (eligible contacts + non-contacts after 10 attempts).<sup>4</sup>

## Results

The results are presented in two main sections to address the two broad research questions in this paper.

### *Research Question One: How confident is the Australian public in the courts and sentencing?*

Tables 2 and 3 display the percentage ratings for the 'Confidence in Sentencing' items. The majority of Australians appeared to have little confidence in the courts; on five of the seven items, the majority of ratings were negative. However, the level of confidence varied depending on which aspect of the courts was being examined. For instance, 59 per cent of respondents indicated that they were fairly/very confident in the courts and legal system generally (item 1.5). In contrast, only 25 per cent agreed '... that judges are in touch with what ordinary people think' (item 20). In addition, respondents provided mostly negative ratings regarding sentencing decisions made by the courts (items 14, 21 and 22) but in contrast tended to (57%) agree '... that judges impose an appropriate sentence most of the time' (item 15).

As demonstrated in Table 4, the majority of respondents agreed that the courts treat people with dignity and respect (53%). However, respondents were close to equally divided with respect to whether the courts listen carefully to people (41% agreed and 37% disagreed) and whether the courts were sensitive to the concerns of the average person (41% agreed and 40% disagreed).

### *Research Question Two: What are the views of the Australian public towards punishment?*

**Table 3.** Percentage ratings for 'Confidence in Sentencing' items utilising a five-point Likert scale ranging from 1 (not at all confident) to 5 (very confident)

Confidence items	Percentage					
	Not at all confident	Not very confident	Neither	Fairly confident	Very confident	Don't know
P21 How confident are you that penalties or punishment given to offenders are appropriate?	11	45	1	40	3	1
P22 How confident are you that the courts are effective at giving punishments which fit the crime?	11	42	1	43	3	1
PI.5 How confident are you generally in the courts and legal system?	8	30	1	53	6	1



**Table 4.** Percentage ratings for 'Egalitarian Courts' items based on N = 6005 Australian respondents

Egalitarian Courts items	Percentage					
	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
P28 Courts treat people with dignity and respect.	3	20	19	48	5	5
P33 Courts listen carefully to people.	6	31	18	37	4	4
P34 Courts are sensitive to the concerns of average people.	6	34	16	39	2	3

**Table 5.** Percentage ratings for 'Punitiveness' items based on N = 6005 Australian respondents

Punitiveness items	Percentage					
	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
P38 The death penalty should be the punishment for murder.	19	33	11	24	12	1
P39 People who break the law should be given stiffer sentences.	1	15	18	49	17	1
P48 Courts are too soft on offenders.	2	14	16	45	22	1
P62 The tougher the sentence, the less likely an offender is to commit more crime.	6	32	10	40	12	1
P65 Rehabilitation is not taken seriously by criminals.	2	12	19	47	17	4
P66 High crime rates are mainly an indication that punishments are not severe enough.	6	30	6	40	17	0
P67 The most effective response to criminality is to have harsher sentences.	6	26	8	44	16	1

Table 5 displays the percentage ratings for the 'Punitiveness' items. The majority of respondents expressed a desire to see more severe penalties for offenders (items 39 and 48) and believed that more severe penalties would be effective in reducing the incidence of crime (items 62, 66 and 67). In particular, 66 per cent of respondents either agreed or strongly agreed that 'People who break the law should be given stiffer sentences'. The majority of Australians (52%) either disagreed or strongly disagreed with the use of the death penalty for murder.

**Table 6.** Percentage ratings for 'Leniency in Sentencing' items based on N = 6005 Australian respondents

Appropriateness of Current Sentences items	Percentage					
	Much too tough	A little too tough	About right	A little too lenient	Much too lenient	Don't know
P49 In general, would you say that sentences handed down by the courts are too tough, about right, or too lenient?	0	3	34	39	20	4
P50 For violent crimes, like armed robbery or rape, would you say that sentences handed down by the courts are too tough, about right, or too lenient?	0	1	17	30	49	3
P51 For non-violent drug crimes, like possession or sale of illegal drugs, would you say that sentences handed down by the courts are too tough, about right, or too lenient?	2	8	34	28	23	5
P52 For non-violent property crimes, like burglary or car theft, would you say that sentences handed down by the courts are too tough, about right, or too lenient?	1	3	30	38	23	6
P53 For juvenile property offenders, would you say that sentences handed down by the courts are too tough, about right, or too lenient?	1	3	26	36	28	6

Table 6 displays the responses to the items measuring 'Leniency in Sentencing'. The majority of respondents agreed that sentencing is too lenient. For sentences 'in general' 59 per cent indicated that sentencing was too lenient. However, perceptions of leniency varied according to offence type and were higher for violent crimes (79%) compared with non-violent crimes (51% for drug offences and 61% for property offences). Approximately two-thirds of respondents (64%) agreed that sentences for juvenile property offenders were too lenient.

There was strong support for the use of alternatives to imprisonment. As illustrated in Table 7, the majority of Australians were willing to accept alternatives for mentally ill (82% of respondents), young (80% of respondents) and drug addicted (66% of respondents) offenders. With respect to non-violent offenders, 55 per cent of respondents agreed that prison sentences should be used less frequently, whereas 64 per cent agreed that community correction orders should be used instead of prison.

**Table 7.** Percentage ratings for 'Acceptance of Alternatives to Prison' items based on N = 6005 Australian respondents

Acceptance of Alternatives items	Percentage					
	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
P54 Fewer prison sentences should be given to non-violent offenders.	3	29	12	50	5	1
P55 Instead of going to prison, young offenders should have to take part in programmes that teach job skills, moral values and self-esteem.	2	11	7	53	27	0
P56 Instead of going to prison, mentally ill offenders should receive treatment in mental health facilities.	2	9	7	54	28	0
P57 Instead of going to prison, non-violent offenders should be given community corrections orders.	4	22	10	54	10	1
P58 Instead of going to prison, drug addicted offenders should be put on an intensive programme of rehabilitation and counselling.	4	19	10	49	17	0

As demonstrated in Table 8, the majority of the respondents agreed that sentencing decisions should reflect public opinion. In particular, almost two-thirds of respondents (64%) agreed that judges should reflect public opinion when sentencing criminals.

## Discussion

As highlighted in the introduction, a critical issue here is public confidence in sentencing and attitudes towards punishment, as public opinion in this area has far-reaching consequences for the criminal justice system and society as a whole. A notable shortcoming in the field has been the paucity of comprehensive and national research on public confidence in sentencing and attitudes towards punishment in Australia. This research has addressed this gap by exploring public confidence in the courts and sentencing, as well as attitudes towards punishment based on findings from the Phase I survey of the Australia-wide sentencing and public confidence project.

*Research Question One: How confident is the Australian public in the courts and sentencing?*

The present study has provided reliable estimates of the levels of confidence in the courts and sentencing in Australia. The views of the public in terms of confidence in the courts and sentencing were relatively nuanced as they varied considerably between items.

**Table 8.** Percentage ratings for 'Judges should reflect public opinion' items based on N = 6005 Australian respondents

Judges should reflect public opinion items	Percentage					
	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
P17 Judges should reflect public opinion about crimes when sentencing criminals.	3	24	8	48	16	1
P19 Sentencing should reflect public opinion.	4	28	9	45	14	1
P25 Court decisions should reflect the majority of public opinion.	3	26	9	47	14	1

The majority of respondents provided unfavourable ratings with regard to confidence in sentencing as it appeared they were dissatisfied with the appropriateness and effectiveness of punishments meted out by the courts. They also expressed doubts as to whether judges are in touch with the views of the general public.

With respect to views on the egalitarian nature of the courts, the majority of respondents agreed that the courts treat people with dignity and respect. However, respondents were close to equally divided with respect to whether the courts listen carefully to people and whether the courts were sensitive to the concerns of the average person.

Favourable views were obtained in terms of confidence in the courts and the legal system in general, and in the appropriateness of sentences imposed by judges most of the time. The qualifier terms such as 'in general' and 'most of the time' used in these latter items may have ameliorated the tendency of respondents to answer questions with violent and extreme examples in mind (Doob and Roberts, 1983; Indermaur, 1987).

It is problematic to compare levels of confidence across jurisdictions due to differences in the types of questions asked. There is a well-documented 'evaporation effect' in confidence across the different branches of the criminal justice system such that confidence levels are higher for the police than they are for the courts or the prison system (e.g. see Indermaur and Roberts, 2009: 2). The present study specifically examined confidence in sentencing and the courts' capacity to treat people in an egalitarian fashion, whereas previous research in Canada has examined confidence in the justice system more broadly (e.g. see Roberts, 2007). The present findings cannot be directly compared with previous research in Australia either, as items from AuSSA have examined confidence with respect to victim and defendant rights as well as efficiency and fairness (e.g. see Indermaur and Roberts, 2009). Although inter-jurisdictional comparisons are inappropriate, it may reasonably be assumed that confidence levels in Australia are low on average given that the majority of Australians provided negative ratings in terms of confidence in sentencing.

*Research Question Two: What are the views of the Australian public towards punishment?*

Respondents demonstrated relatively high levels of punitiveness. In particular, two-thirds agreed that 'People who break the law should be given stiffer sentences'. This same question was asked of respondents to the 2007 AuSSA and 71 per cent of respondents agreed with this statement (Roberts and Indermaur, 2009). A third of respondents (36%) supported the use of the death penalty as the punishment for murder. This figure is comparable to the 43.5% obtained in the 2007 AuSSA (Roberts and Indermaur, 2009). Roberts and Indermaur noted that support for the death penalty has declined in Australia since 1993. The present results suggest that this trend has continued.

Over half (59%) of the respondents in the present study agreed that sentences in general were too lenient. However, the current survey also asked respondents for their views regarding leniency based on offence type given previous research has indicated that respondents are often thinking of a violent offence when stating that sentences are too lenient (Doob and Roberts, 1983; Indermaur, 1987). In the present study, perceptions of leniency in sentencing were higher for violent crimes, compared with non-violent crimes. This is consistent with findings from other Australian studies. For instance, in the Tasmanian Jury Study 73 per cent of respondents were of the view that sentencing was too lenient for violent offences whereas 54 per cent held this view for drug offences and 54 per cent for property offences (Warner et al., 2011).

Many researchers have highlighted the key role that public opinion plays in the formulation of sentencing laws and practices (e.g. Frost, 2010; Roberts, 2008; Wood, 2009). Indeed in the present study, almost two-thirds (64%) of respondents agreed that judges should reflect public opinion when sentencing offenders. This question is taken from AuSSA surveys with similar results: in 2003 63 per cent of respondents agreed that judges should reflect public opinion when sentencing (Indermaur and Roberts, 2005), and in 2007, 58 per cent agreed to the slightly differently wording that 'when sentencing criminals, judges should reflect the views of the public' (Roberts and Indermaur, 2009). This finding lends credence to Tyler's (2006a: 392) proposal that, 'Widespread legitimacy will exist only when the perspectives of everyday members are enshrined in institutions and in the actions of authorities'. Some judges and magistrates would agree on the need to take into consideration the views of the public at sentencing or at least community expectations (Gleeson, 2004; Mackenzie, 2005). Primarily however, public opinion has a more direct impact on sentencing policy and the legislature, rather than directly on the judicial process.

The key question that is open to debate is how we ought to gauge public opinion. As Chief Justice Murray Gleeson of the High Court of Australia (Gleeson, 2004) has noted, it is unclear for instance what methodologies should be used to gauge public opinion, whose views should be taken on board, and whether uninformed opinions should be given as much weight as informed opinions. These are all highly contentious issues of debate in the public opinion field.

The present findings confirm that the Australian public lacks confidence in sentencing, is dissatisfied with the quantum of penalties and believes that harsher sentencing is needed. This is of substantial concern as confidence in the criminal justice system is essential to its effective functioning (e.g. Roberts, 2007). However, the present findings also suggest that public opinion is extremely nuanced. Alongside the expressed desire for

harsher penalties, there was widespread support for the use of alternatives to imprisonment for young, mentally ill and non-violent offenders. Previous research (e.g. Doob, 2000) has shown that respondents are less punitive and appear to be open to alternatives to imprisonment when presented with a specified alternative.

It appears then that public opinion in this area is more diverse and complex than standard opinion polls would suggest. Through incorporating a greater variety of items to gauge public opinion, the present study has offered a more comprehensive picture than AuSSA (Roberts and Indermaur, 2009) on the views of the Australian public towards sentencing and punishment. The public appeared to be relatively punitive when their views were measured using generalised statements such as those adopted in AuSSA. In contrast, the public appeared to be willing to support less punitive sentences when they were asked to consider alternatives to imprisonment. Inconsistencies in public opinion regarding criminal justice issues have been well documented and it has been argued that the methodology employed to gauge public opinion as well as the type and depth of information provided has a strong bearing on the results obtained (e.g. Allen, 2004; Casey and Mohr, 2005; De Kaiser et al., 2007; Hough and Roberts, 2007; Hutton, 2005).

The nuanced opinions expressed by so many Australians in the present study highlights the problematic nature of gauging public opinion using top-of-the-head style opinion polls. Notable scholars in the field (e.g. Green, 2006) have discussed at length what is meant by 'public opinion' and whether it is wise to rely on public opinion per se as opposed to informed public judgment. It has been suggested that alternative methodologies are needed that tap into informed judgments as opposed to top-of-the-head opinions (e.g. Green, 2006). The latter phases of this national sentencing and public confidence project have explored the efficacy of alternative strategies for achieving precisely this distinction, and they will be the subject of additional papers to come. Nonetheless, it is concluded that baseline data on these top-of-the-head opinions provides an important starting point and the present study has made a significant contribution to the field by providing reliable national estimates of the views of the Australian public towards sentencing and punishment.

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### Notes

1. The Victorian Sentencing Advisory Council provided funding for an additional 1200 respondents in Victoria over and above the 800 recruited as part of the stratified random sample of 6005 participants.
2. The extent to which the sample is representative of the Australian population with regards to income cannot be accurately determined given income category was self-rated in the present study, whereas national data on income from the ABS comprises calculations of disposable income after tax (see ABS, 2009: 4).

3. A drawback of telephone surveys is that they tend not to be representative of all age groups, and certain sub-populations without fixed telephone lines will not be contacted (Steel et al., 1996).
4. This response rate is higher than the response rates of 39–42 per cent obtained for the 2007 AuSSA (see Roberts and Indermaur, 2009) although differences in response rates are not directly comparable due to differences in survey methodology. The present study used telephone interviews, whereas AuSSA involved mail-out surveys.

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**Appendix****Table A1.** Details of individual items included in the Phase I survey of 6005 Australian respondents

Construct	Items	Response options
Confidence in sentencing	P11 The individual judge is the best person to choose an appropriate sentence for each case.	1 Strongly disagree – 5 strongly agree
	P14 I am satisfied with the decisions that the courts make.	
	P15 I have confidence that judges impose an appropriate sentence most of the time.	
	P20 Judges are in touch with what ordinary people think.	
	P21 How confident are you that penalties or punishment given to offenders are appropriate?	1 Not at all confident – 5 very confident
	P22 How confident are you that the courts are effective at giving punishments which fit the crime?	
	P1.5 How confident are you generally in the courts and legal system?	
Egalitarian courts	P28 Courts treat people with dignity and respect.	1 Strongly disagree – 5 strongly agree
	P33 Courts listen carefully to people.	
	P34 Courts are sensitive to the concerns of average people.	
Punitiveness	P38 The death penalty should be the punishment for murder.	1 Strongly disagree – 5 strongly agree
	P39 People who break the law should be given stiffer sentences.	
	P48 Courts are too soft on offenders.	
	P62 The tougher the sentence, the less likely an offender is to commit more crime.	
	P65 Rehabilitation is not taken seriously by criminals.	

(continued)

**Table A1.** Continued.

Construct	Items	Response options
Leniency in sentencing	P66 High crime rates are mainly an indication that punishments are not severe enough.	
	P67 The most effective response to criminality is to have harsher sentences.	
	P49 In general, would you say that sentences handed down by the courts are too tough, about right, or too lenient?	I much too tough – 3 about right – 5 much too lenient
	P50 For violent crimes, like armed robbery or rape, would you say that sentences handed down by the courts are too tough, about right, or too lenient?	
	P51 For non-violent drug crimes, like possession or sale of illegal drugs, would you say that sentences handed down by the courts are too tough, about right, or too lenient?	
Acceptance of alternatives to prison	P52 For non-violent property crimes, like burglary or car theft, would you say that sentences handed down by the courts are too tough, about right, or too lenient?	
	P53 For juvenile property offenders, would you say that sentences handed down by the courts are too tough, about right, or too lenient?	
	P54 Fewer prison sentences should be given to non-violent offenders.	I Strongly disagree – 5 strongly agree
	P55 Instead of going to prison, young offenders should have to take part in programmes that teach job skills, moral values and self-esteem.	
	P56 Instead of going to prison, mentally ill offenders should receive treatment in mental health facilities.	

(continued)

**Table A1.** Continued.

Construct	Items	Response options
Judges should reflect public opinion	P57 Instead of going to prison, non-violent offenders should be given community corrections orders.	I Strongly disagree – 5 strongly agree
	P58 Instead of going to prison, drug addicted offenders should be put on an intensive programme of rehabilitation and counselling.	
	P17 Judges should reflect public opinion about crimes when sentencing criminals.	
	P19 Sentencing should reflect public opinion.	
Media scepticism	P25 Court decisions should reflect the majority of public opinion.	I Strongly disagree – 5 strongly agree
	P72 The news media are fair	
	P73 The news media tell the whole story	
	P74 The news media are accurate	
Fear of crime	P75 The news media are unbiased	I Never – 5 many times
	P76 The news media can be trusted	
	P79 How frequently have you worried about becoming a victim of a violent crime in your neighbourhood during the previous month?	
	How safe do you feel walking alone in your area after dark?	
Perceptions of crime levels	How safe do you feel when alone at home after dark?	I Decreased a lot – 5 increased a lot
	In your opinion, do you think that the level of crime overall in <INSERT STATE/TERRITORY> has increased, decreased or remained the same over the past TWO years?	
	In your opinion, do you think that the level of burglary in <INSERT STATE/TERRITORY> has increased, decreased or remained the same over the last TWO years?	

(continued)

**Table A1.** Continued.

Construct	Items	Response options
Media usage	In your opinion, do you think the level of murder in <INSERT STATE/TERRITORY> has increased, decreased or remained the same over the last TEN years?	
	Which type of media do you mainly rely on most for news and information?	1 Television non commercial – ABC, SBS etc. 2 Television commercial – Channel 7, 9, 10 or local 3 Radio non commercial (ABC, SBS etc.) 4 Radio commercial – (any commercial radio) 5 Newspaper – broadsheet – Age, SMH or Australian 6 Newspaper tabloid – most local state papers, Daily Telegraph 7 Internet 8 None of the above
	On average how many hours of television do you watch in a week?	
Trust in government	How many hours per week do you watch TV crime dramas such as CSI, City Homicide, The Bill or NCIS?	
	P7 Thinking about the federal government in Australia these days, would you say it is run for a few big interests looking out for themselves, or that it is run for the benefit of all people?	I entirely run for a few big interests – 3 50/50 or half/half – 5 entirely run for the benefit of all
	P8 I feel that government institutions don't care about people like me	I Strongly disagree – 5 strongly agree
Interpersonal trust	P9 People like me don't have any say about what the government does	
	P10 Generally speaking, people can be trusted	I Strongly disagree – 5 strongly agree

(continued)

**Table A1.** Continued.

Construct	Items	Response options
Mandatory sentencing	P12 There should be minimum terms of imprisonment to make sure that judges don't give sentences that are too lenient P16 Laws should be written so that judges have less discretion in determining the final sentence	I Strongly disagree – 5 strongly agree
Likelihood of victimisation	Q80 What percentage of households do you think would have been burgled in <INSERT STATE/TERRITORY> in the last 12 months? Q81 What percentage of people do you think would have been the victim of a violent crime in <INSERT STATE/TERRITORY> in the past 12 months?	
Demographic items	Age Gender Have you had any personal experience with the criminal courts, for instance as a juror, witness, victim, defendant or working in the courts? If yes, in what capacity? All up, including primary, secondary and tertiary education, how many years of education have you completed? Do you live in a metropolitan area, a rural area, a regional area or a remote location? Would you say your household sits in the middle, upper, or lower range of income? In politics people sometimes refer to being on the left or on the right. Where would you place yourself on a scale from 0 to 10 where 0 means the left and 10 means the right?	

**Table A2.** Descriptions of scales constructed on the basis of a sample of 6005 Australian respondents

Scale <sup>a</sup>	Designed to measure	$\alpha^b$	No. items	Min	Max	Mean (SD)
Confidence in sentencing	Confidence in sentencing of criminal cases. Higher scores = higher levels of confidence in sentencing.	.84	7	7	35	19.61 (5.57)
Egalitarian courts	Confidence in court process and courts' treatment of people. Higher scores = higher confidence in court process.	.64 <sup>c</sup>	3	3	15	9.24 (2.36)
Punitiveness	Desire for harsher punishment. Higher scores = higher levels punitive attitudes.	.83	7	7	35	24.00 (5.60)
Leniency in sentencing	Perceptions of leniency in current sentences imposed by the courts for various crimes. Higher scores = higher perceived leniency in sentencing.	.77	5	5	25	20.03 (3.06)
Acceptance of alternatives to prison	Willingness to accept the use of alternatives to imprisonment such as community supervision orders.	.66 <sup>c</sup>	5	5	25	18.36 (3.28)
Judges should reflect public opinion	Support for the view that the sentences imposed by judges should be reflective of public opinion.	.84	3	3	15	10.33 (2.97)
Media scepticism	Uncritical acceptance of information presented by the media. Higher scores = lower levels of media scepticism.	.83	5	5	25	11.17 (3.60)
Fear of crime	Fear of victimisation. Higher scores = higher levels of fear.	.69 <sup>c</sup>	3	3	12	5.30 (2.18)
Perceptions of crime levels	Perception that crime levels are increasing. Higher scores = higher perceived increases in crime levels.	.72	3	3	15	11.60 (2.30)

*Notes:*<sup>a</sup>Principal Axis Factoring supported the unidimensional scale structure of each of these scales.<sup>b</sup> $\alpha$  = Cronbach's Alpha

<sup>c</sup>The conventional cut-off value for Cronbach's alpha in the social sciences literature is 0.70. Thus, the Cronbach's alpha of .64 for 'Egalitarian courts', .69 for 'Fear of crime' and .66 for 'Acceptance of alternatives to prison' would suggest these scales do not possess acceptable levels of internal consistency. However, the Cronbach's alpha coefficient is positively influenced by the number of items in the scale even though scales with a small number of items will have a better average inter-item correlation than a larger scale with the same alpha value (e.g. see Cortina, 1993). The average inter-item correlations between the three items comprising 'Fear of crime' and 'Egalitarian courts' and the five items comprising 'Acceptance of alternatives to prison' are comparable to those obtained for the seven items comprising 'Punitiveness' and 'Confidence in Sentencing' which had a Cronbach's alpha of .83 and .84 respectively. Therefore, 'Egalitarian courts', 'Fear of crime' and 'Acceptance of alternatives to prison' were retained for analysis as scales in this study.